IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6898 of 2007()

CRIME NO.468/07 OF THE VADAKKEKKAD POLICE STATION

PETITIONER :

RAJESH,S/O.KUNHIMON,PARUTHITHARAYIL HOUSE,KUNDANI DESOM,PUNNAYURKULAM,CHAVAKKAD TALUK.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA AT ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6898 OF 2007

Dated this the 14th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered for offences punishable, inter alia, under Sec.452 of the IPC. That is the only non-bailable offence alleged. The crux of the allegations against the petitioner is that on account of animosity arising from an earlier incident which had taken place, he had returned to the hotel run by the de facto complainant. He trespassed into the hotel and allegedly indulged in wanton acts of mischief. The biscuit jars etc., were broken and injures were suffered by the de facto complainant in such incident. The crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that

the allegations are totally false and incorrect. The allegations, even if believed, would not constitute an offence alleged under Sec.452 of the IPC, contends the learned counsel for the petitioner. The petitioner may, in these circumstances, be granted anticipatory bail, it is alleged.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances warranting or justifying the invocation of the jurisdiction under Sec.438 of the Cr.P.C.

4. I have considered all the relevant inputs. The learned Public Prosecutor points out that the scene mahazar bears tell tale indications of the incident which had taken place inside the shop room. I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. It is for the petitioner to appear before the learned Magistrate and seek regular bail in the ordinary course. Needless to say that the dismissal of this application will not not in any way fetter the rights of the petitioner to raise all relevant contentions before the learned Magistrate.

5. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge